



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

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| Date Amended: | 05/13/03 | Bill No: | AB 914 |
| Tax: | Emergency Telephone Users Surcharge | Author: | Reyes |
| Board Position: | | Related Bills: | |

This analysis will only address the bill's provisions that impact the Board.

BILL SUMMARY

This bill would, among other things, rename the “Emergency Telephone Users Surcharge Act” the “Emergency Telecommunications Surcharge Act,” and revise the imposition of the surcharge to be imposed on amounts paid by every person in the state for intrastate telecommunications service in this state.

Summary of Amendments

The amendments to this bill since the previous analysis delete the provision that would have provided that the emergency telephone users surcharge is a fee, rather than a tax, levied by the state.

ANALYSIS

Current Law

Under existing law, the emergency telephone users (911) surcharge is imposed on every person in the state for intrastate telephone communication services at the rate of 0.72% of the charges for such services unless specifically exempted by law. The rate is determined annually by the Department of General Services so that sufficient revenue is produced to fund the current year’s fiscal costs of administration of the 911 emergency telephone number system.

Current statutes provide that every service supplier shall collect the surcharge from each service user at the time it collects its billings from the service user. A service supplier is currently defined as any person supplying intrastate telephone communication service to any service user in this state.

The surcharges remitted to the state are deposited in the State Treasury to the credit of the State Emergency Telephone Number Account in the General Fund. The funds in this account are used to pay for the costs of administration of the 911 emergency telephone number system.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board’s formal position.

Proposed Law

Among other things, this bill would amend Section 41001 of the Revenue and Taxation Code to rename the "Emergency Telephone Users Surcharge Act" the "Emergency Telecommunications Surcharge Act." This bill would also replace the term "telephone" and "telephone communication" throughout the Emergency Telephone Users Surcharge Law with the undefined term "telecommunications." As such, the surcharge would be imposed on amounts paid by every person in the state for intrastate telecommunications service in this state.

This bill would become effective January 1, 2004.

Background

In 1972, Assembly Bill 515 (Chapter 1005) mandated the establishment of a statewide universal emergency telephone number to be used by all public safety and emergency agencies, thereby allowing citizens a single easy-to-remember number to dial for emergency aid regardless of location or the nature of the emergency.

In order to generate funds necessary for subventions to local public agencies to implement the emergency telephone systems, Assembly Bill 416 (Chapter 443, Stats. 1976) imposed a telephone users tax on every person in the state using intrastate telephone communication services. That tax, the Emergency Telephone Users Surcharge, is imposed on charges made for intrastate telephone communication services and is paid by the service user.

In General

The Federal Communications Commission (FCC) requires that wireless carriers must implement Enhanced-911 (E911). The wireless E911 rules seek to improve the effectiveness and reliability of wireless 911 service by providing 911 dispatchers with additional information on wireless 911 calls.

The wireless E911 program is divided into two parts - Phase I and Phase II. Phase I requires carriers, upon appropriate request by a local public safety answering point (PSAP), to report the telephone number of a wireless 911 caller and the location of the antenna that received the call. Phase II requires wireless carriers to provide far more precise location information, within 50 to 100 meters in most cases.

The deployment of E911 requires the development of new technologies and upgrades to local 911 PSAPs, as well as coordination among public safety agencies, wireless carriers, technology vendors, equipment manufacturers, and local wireline carriers. The FCC established a four-year rollout schedule for Phase II, beginning October 1, 2001 and to be completed by December 31, 2005.

Currently, the 911 system is able to locate a caller from a landline phone by pulling up their vital information. This information is transmitted to one of over 500 PSAPs, which are local and state agencies that answer 911 calls, by way of an Automatic Number Identification (ANI) and Automatic Location Identification (ALI). As cell phone usage and technological improvements in wireless communication have grown over the last three decades, the 911 system has for the most part remained unchanged. Currently,

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after three years of the wireless 911 effort, only the Torrance Police Department has the ability to locate wireless 911 calls because else where in the state either the receiving entity or the transmitting entity cannot send ANI/ALI information.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the California Chapter of the National Emergency Number Association and is intended to update the Warren 911 Emergency Services Act and the Emergency Telephone Users Surcharge Act to clarify that the existing 911 system, which is based on calls being directed to public safety answering points (PSAPs) by the public switch telephone network, is part of a telecommunications network rather than simply a call termination point. This bill would require the creation of a client-server network that would allow PSAPs to access geo-reference maps, overlay them with location information from wireless carriers, and pinpoint the location of 911 calls made from cellular phones. This bill would provide funding for these upgrades through the existing Emergency Telephone Users Surcharge.
2. **Key amendments.** The **May 13, 2003**, amendments delete the provision that would have provided that the emergency telephone users surcharge is a fee, rather than a tax, levied by the state.

The **May 6, 2003**, amendments that impact the Board include removing the proposed increase in the existing floor and ceiling for the emergency telephone users surcharge. The purpose of the proposed increase was to ensure that all 500 plus PSAPs were able to be funded for costs to upgrade and maintain the client server system. The proposed increase was removed since the anticipated fund balance would more than cover the initial costs for developing the plans and working drawings for the client server system.

The **April 22, 2003**, amendments delete the previous provisions of the bill, which would have declared the intent of the Legislature to enact legislation to provide a funding mechanism for the purchase and operation of public safety communication systems throughout the state. With respect to the provisions impacting the Board, the bill was amended to 1) specify that the range of the surcharge be changed from being no more than .75 percent of 1 percent or no less than .5 percent of 1 percent to no more than 2 percent or no less than 1 percent, and 2) replace the term "telephone" and "telephone communication" through out the Emergency Telephone Users Surcharge Law with the term "telecommunications."

3. **Definition for "telecommunications" needed.** This measure would replace the terms "telephone," "communication," "telephone communication," and "radiotelephone" with the term "telecommunications" throughout the Emergency Telephone Users Surcharge Law. This would result in the surcharge being imposed upon every person in the state for intrastate telecommunications service, rather than intrastate telephone communication service, in this state.

This bill does not define the term "telecommunications." Telecommunications could be interpreted to include, in part, telephone service, access to the Internet, high speed data communications, satellite communications, surfing the World Wide Web,

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fax transmissions, video conferencing and cable television, which would significantly expand the current surcharge program. However, based on a discussion with the author's office, this measure is intended to maintain the imposition of the current emergency telephone users surcharge. As such, it is suggested that the author's intent be clarified by providing a definition for the term "telecommunications."

4. **"911" name change.** This measure would rename the "911 system" the "telecommunications emergency response system." However, this revision would not impact the Board's administration of the Emergency Telephone Users Surcharge.
5. **Disposition of proceeds.** This measure would not rename the account into which the Board deposits payments of the surcharge. Accordingly, the Board would continue to transmit the payments to the State Treasurer to be deposited in the State Treasury to the credit of the State Emergency Telephone Number Account in the General Fund.
6. **Suggested technical amendments.** Board staff suggests the following amendments to remove obsolete date references from the Emergency Telephone Users Surcharge Law:

41007. ~~(a)~~ "Service supplier" shall mean any person supplying intrastate telecommunications services pursuant to California intrastate tariffs to any service user in this state.

~~(b) On and after January 1, 1988,~~ "service supplier" also includes any person supplying intrastate telecommunications services for whom the Public Utilities Commission, by rule or order, modifies or eliminates the requirement for that person to prepare and file California intrastate tariffs.

41020. (a) A surcharge is hereby imposed on amounts paid by every person in the state for intrastate telecommunications service in this state ~~commencing on July 1, 1977.~~

(b) The surcharge imposed shall be ~~at the rate of one-half of 1 percent of the charges made for telecommunications services to and including November 1, 1982, and thereafter~~ at a rate fixed pursuant to Article 2 (commencing with Section 41030).

COST ESTIMATE

Enactment of this measure would not impact the Board's administrative costs.

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REVENUE ESTIMATE

This measure would not affect the state's revenues. The Emergency Telephone Users' Surcharge is set at a rate necessary to fully fund the 911 program.

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